

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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|--|---|----------------------------|
| VERONIKA WARD, individually and on |) | Case No. 1:24-cv-00078 |
| behalf of all others similarly situated, |) | |
| |) | Hon. Andrew L. Carter, Jr. |
| Plaintiff, |) | |
| |) | |
| PEPPERIDGE FARM, INC., |) | |
| |) | |
| Defendant. |) | |
| |) | |

DEFENDANT’S NOTICE OF MOTION TO DISMISS

PLEASE TAKE NOTICE that, pursuant to the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York, as well as Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, and based on defendant Pepperidge Farm, Incorporated’s accompanying Memorandum of Law in Support of its Motion to Dismiss, the undersigned will and hereby does move this Court before the Honorable Andrew L. Carter, Jr. at the United States District Court for the Southern District of New York, located at the United States Courthouse, 40 Foley Square, Courtroom 1306, New York, NY 10007, on a date and time to be determined by the Court, for an order dismissing the Class Action Complaint with prejudice, on the grounds that (1) plaintiff fails to allege that she was, or that a reasonable consumer would be, deceived; (2) plaintiff’s claims are preempted; and (3) plaintiffs fail to adequately plead a claim for breach of express warranty.

Dated: May 13, 2024

Respectfully submitted,

/s/ Dale J. Giali
Dale J. Giali (*pro hac vice*)
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Attorneys for Defendant PEPPERIDGE
FARM, INCORPORATED

CERTIFICATE OF SERVICE

The undersigned certifies that on May 13, 2024, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system and thereby served on all counsel of record via CM/ECF.

Dated: May 13, 2024

/s/ Dale J. Giali
Dale J. Giali